

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 2:10-CV-01087

\$88,029.08, MORE OR LESS,  
IN UNITED STATES CURRENCY,

Defendant.

Katherine Anne Hoover and  
John F. Tomasic,

Interested Parties  
(No pending criminal charges).

O R D E R

Pending before the Court is the Motion of the United States to Modify the Scheduling Order Entered on April 20, 2011 (ECF No. 84), which motion was filed on July 13, 2011. The interested parties have not filed a response to this motion within the two-week period permitted by Local Rule 7.1(a)(7).

For good cause shown, it is hereby **ORDERED** that the Motion to Modify is granted. It is further **ORDERED** as follows:

1. **Discovery.** The parties shall complete service of all written discovery requests by October 28, 2011 and all depositions by December 16, 2011. The last date to complete depositions shall be the "discovery completion date" by which all discovery,

including disclosures required by Federal Rule of Civil Procedure 26(a)(1), and (2), but not disclosures required by Federal Rule of Civil Procedure 26(a)(3), shall be completed.

2. **Expert Witnesses:** The party bearing the burden of proof on an issue shall make the disclosures of information required by Fed. R. Civ. P. 26(a)(2)(A) and (B) for that issue to all other parties or their counsel no later than November 14, 2011. The party not bearing the burden of proof on an issue shall make the disclosures required by Fed. R. Civ. P. 26(a)(2)(A) and (B) for that issue to all other parties or their counsel no later than November 30, 2011. All parties shall provide the disclosures required by Fed. R. Civ. P. 26(a)(2)(A) and (B) if the evidence is intended solely to contradict or rebut evidence on the same issue identified by another party under Fed. R. Civ. P. 26(a)(2)(B), no later than December 9, 2011.

3. **Summary Judgment and Other Dispositive Motions.** Motions for Summary Judgment (under Rule 56 of the Federal Rules of Civil Procedure) shall be filed by **January 6, 2012**. Pursuant to the holding of Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Interested Parties are hereby notified that they have the right and an obligation to file a response to the United States' motion, if one is filed, submitting affidavits or statements subject to the penalties of perjury, exhibits, or other legal or factual material supporting their position in the case.

The Interested Parties are advised that factual statements in affidavits submitted by the United States will be accepted as true unless the Interested Parties set forth facts in their responses indicating the existence of a genuine or actual dispute of material fact for trial. In the responses, the Interested Parties must set out either in their own affidavits or sworn statements, or the affidavits or sworn statements of other witnesses, specific facts that show that the Interested Parties and the United States actually disagree about one or more important facts present in this case. In the affidavits and exhibits, the Interested Parties should address, as clearly as possible, the issues and facts stated in the Verified Complaint of Forfeiture (ECF No. 1) and in the affidavits or other evidence submitted by the United States.

The Interested Parties are also advised that a failure to respond to the motion may result in entry of summary judgment granting the relief sought in the Verified Complaint of Forfeiture. In preparing their responses, the Interested Parties should be aware of the fact that a knowing assertion of a falsehood in order to avoid summary judgment could, if proven, constitute perjury punishable by law.

Responses to dispositive motions shall be filed by **January 27, 2012**. Replies to dispositive motions shall be filed by **February 3, 2012**.

4. **Mediation and Settlement Meeting**. Any mediation scheduled

by the parties must be concluded by December 23, 2011.

Deadlines in addition to those set forth above shall be set by the presiding District Judge.

The Clerk is directed to transmit this Order to counsel of record and to provide a copy to the Interested Parties Hoover and Tomasic via fax transmission to 242-328-4014 or, alternatively, by Federal Express.

ENTER: August 12, 2011

  
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Mary E. Stanley  
United States Magistrate Judge